

# **IT'S TIME TO DRAW THE LINE**

A Citizen's Guide to Local Agency Formation Commissions in California

August 1996

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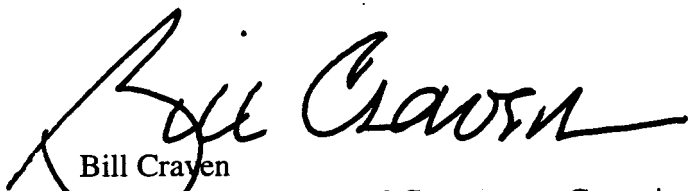
Dear friend,

City limits and district lines wield powerful forces in California. They control who gets to develop land, who pays which taxes, and who receives public services. Few of us, however, know much about the institutions that draw these lines. Although Local Agency Formation Commissions, or "LAFCOs," have existed for over 30 years, few Californians understand what they are and how they do what they do.

In recent years, legislative activity and citizen interest in LAFCOs has increased dramatically. The current trend to "reinvent government" by making it more efficient has spurred ideas that involve LAFCOs.

To increase citizen awareness of LAFCOs, I asked the Senate Local Government Committee to prepare a citizen's guide. Bill Ihrke's work will be helpful as you attempt to simplify the complexities that surround LAFCOs.

Cordially,



Bill Craven  
Chairman, Senate Local Government Committee

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## **INTRODUCTION**

No state is as geographically and demographically diverse as California. From the Siskiyou Mountains to San Diego Bay, California's over 5,000 local governmental agencies serve 33 million residents. With so many governments, many people wonder whether anybody or anything actually oversees the number, powers, and jurisdictions of these governments. Rest assured, local agencies can't change their boundaries on a whim because they need permission from LAFCOs.

Most Californians, however, don't know much about LAFCOs. We don't know:

- What they are (independent regulatory commissions)
- How many (57-- one in each county except San Francisco)
- Who serves on them (your county supervisor, city council member, or you!)
- What they cost (\$5.3 million a year)

This Citizen's Guide to Local Agency Formation Commissions answers many of your questions about LAFCOs. In plain language, this guide explains what LAFCOs are, where they came from, their legal powers, and how to understand them. This guide also tells you where to get more information about LAFCOs, and how you can become involved with their proceedings.

Democracy works best when people are informed about the governments that serve them. This guide will make you more aware about the unique and influential governmental entities known as LAFCOs.

## WHAT'S A LAFCO?

Despite the acronym, LAFCOs are not the hot new comedy clubs in California. From city limits to mosquito abatement districts, **Local Agency Formation Commissions (LAFCOs or the commissions) are** independent regulatory commissions created by the California Legislature to control the boundaries of cities and most special districts. LAFCOs regulate boundaries for three reasons:

- Encourage the orderly formation of local governmental agencies.
- Discourage urban sprawl.
- Preserve prime agricultural land.

Where do LAFCOs get the power to determine these lines? Ultimately, it comes from the United States Constitution. The Tenth Amendment says, “The powers not delegated to the United States by the Constitution. . .are reserved to the states respectively, or to the people.” The federal government allows each state to determine how to organize its local governments.

Article XI, Section 2(a) of the California Constitution requires the Legislature to “prescribe [a] uniform procedure for city formation and provide for city powers.” The Legislature has the complete authority to create, dissolve, or change the governing jurisdiction of special districts because they receive their powers only through state statutes. The Legislature prescribed a “uniform procedure” for boundary changes by passing the **Cortese-Knox Local Government Reorganization Act of 1985**. The Cortese-Knox Act delegates the Legislature’s boundary powers to LAFCOs. The state possesses the exclusive power to regulate boundary changes, which means that no local government has the right to change its own boundary without state approval. Local governments can’t use an initiative or referendum to vote upon a boundary change as an attempt to circumvent LAFCO approval.

The Legislature divided the state into counties that serve as the local administrators of state services. All of California’s 58 counties, except San Francisco, have LAFCOs. For example, Santa Barbara County has Santa Barbara LAFCO and Yuba County has Yuba LAFCO. Because San Francisco is a consolidated city and a county and because it doesn’t have any special districts, there is no need for a LAFCO.

Here’s the real kicker, though: a LAFCO is not a county agency. It is an independent regulatory commission operating at the county-level that receives its powers directly from the Legislature. Further, a LAFCO has its own governing body that does not fall under the authority of the county board of supervisors.

Though the Legislature has the constitutional power to control city and special district boundaries by itself, it prefers to have these county-level commissions in the counties create boundaries because they are “closer to the people.” Because the counties have

vastly different people, geography, and governing institutions, local government boundaries are best regulated at the local level.

At the same time, having a single local entity controlling boundary changes is better than having many local agencies regulating their own boundaries. Therefore, the Legislature authorizes a single county LAFCO to determine local boundaries in each county.

LAFCOs regulate all city, all town, and most special district boundaries, including:

- Airport districts
- California water districts
- Cemetery districts
- Community services districts
- County sanitation districts
- County service areas
- County water districts
- County waterworks districts
- Fire protection districts
- Harbor and port districts
- Hospital districts
- Irrigation districts
- Library districts
- Mosquito abatement districts
- Municipal utility districts
- Municipal water districts
- Pest control districts
- Police protection districts
- Public utility districts
- Reclamation districts
- Recreation and park districts
- Resource conservation districts
- Sanitary districts
- Sewer districts
- Sewer maintenance districts
- Vector control districts

LAFCOs don't regulate boundaries for counties and the following local governments:

- Air pollution control districts
- Air quality management districts
- Bridge or highway districts
- Community college districts
- Community facilities districts  
(Mello-Roos districts)
- Improvement districts
- Joint highway districts
- Metropolitan water districts
- Permanent road divisions
- Redevelopment agencies
- School districts
- Separation of grade districts
- Service zones of fire protection districts
- Special assessment districts
- Transit or rapid transit districts
- Unified or union high school library districts

Instead of using LAFCOs, the Legislature has created alternative procedures to create and dissolve these agencies, and to change their boundaries.

## **WHAT A LAFCO IS NOT**

Local governments in California divide into five categories: counties, cities, special districts, school districts, and miscellaneous. Each category has certain powers and duties. ***Police powers*** include the ability to make and enforce regulations, while ***corporate powers*** include the ability to raise revenue and to provide services. Counties and cities have both police and corporate powers, while special districts and school districts have only corporate powers. Depending upon the function of a miscellaneous local government, it may possess both police powers and corporate powers.

The state's 58 ***counties are*** governmental entities that administer state programs and provide additional services. The governing body for every county is an elected board of supervisors, usually with five members.

A LAFCO is not a county agency. No county has a "Department of LAFCO" or "LAFCO agency." To contrast, Riverside County has the Department of Building and Safety, which falls under the oversight of the board of supervisors. The Department inspects buildings to make sure that they are seismically safe and that they comply with state and local building codes. Riverside LAFCO, however, does not fall under the jurisdiction of the board of supervisors and is not a subsidiary of the county.

California's 470 ***cities are*** municipal corporations that regulate and serve a relatively small territory. The governing body for a city is a council, which may have five or more elected members. A LAFCO is not a city department or city agency. Although city officials sit on LAFCOs, no city or group of cities has direct authority over a LAFCO.

The over 3,400 ***special districts are*** government entities that provide specific services in defined locations. The governing body for a special district is a board of directors. Special districts deliver diverse services, including irrigation water, closed captioned television, and fire protection. Districts' service areas range from a single city block to a multi-county region. For example, the Metropolitan Water District of Southern California serves 16 million people in over 5,200 square miles of six counties, while County Service Area #2 in Los Angeles County serves only 25 acres. To learn more about special districts, the Senate Local Government Committee has another Citizen's Guide called What's So Special About Special Districts.

California has about 1,100 ***school districts*** (including community college districts) that provide just one service: public education. Though schools share similar characteristics with special districts, they differ in that the state government has a long history of ensuring public education at a state-wide level. Further, the state government primarily finances schools, whereas special districts receive their primary funding from taxes, fees, and assessments.

Other ***miscellaneous local governments*** that may sound familiar include:

- Joint powers authorities (JPAs) formed by any two or more governmental entities (federal, state, or local) to provide a common service. Many are financing tools that let governmental agencies pool their scarce resources. Some run programs jointly.
- Special finance agencies, namely Mello-Roos districts and benefit assessment districts, raise revenue from specific areas. Some pay for public works while others pay for services. Counties, cities, special districts, and schools use finance districts to pay for public services.
- Redevelopment agencies are state agencies enacted by cities and counties to eliminate blight by financing public/private improvements and by encouraging affordable housing and economic development.
- Regional agencies are state commissions that exist to accommodate a defined public policy interest of a regional nature. Examples include air quality management districts, councils of government, and the California Coastal Commission, and

LAFCOs fall under the category of miscellaneous local governments because they don't fit anywhere else. They have a specific purpose to regulate boundaries, but they are not counties, cities, or special districts. They follow rules prescribed by the California Legislature, but they are not an administrative governmental entity. LAFCO's regulatory and planning powers allow the commissions to serve a unique function.

### **POWERS OF LAFCO**

LAFCOs have both regulatory and planning powers. LAFCOs do not have corporate powers. **Regulatory powers** authorize LAFCOs to control city and special district boundaries. **Planning powers** let LAFCOs influence land use. State law forbids LAFCOs from making **direct land use decisions**. LAFCOs can't regulate the use of land, property development, or subdivision design. For instance, Mendocino LAFCO neither can adopt a resolution that zones some land in the county for airport facilities nor overturn a city council zoning decision.

State law, however, requires LAFCOs to make **indirect land use decisions**, which occur when commissions approve or deny boundary changes to cities and special districts that control or influence land use. In other words, LAFCOs control the timing and location of land use because they control the boundaries of those local governments that make land use decisions and provide services for development. For example, if Tulare LAFCO approves the annexation of farmland to the Lemon Cove Sanitary District, it is indirectly promoting land use development by giving the land owner access to a public sewer service that is necessary for development.

LAFCOs engage in three types of indirect land use decisions by controlling access to public facilities and services that are growth inducing, growth supporting, or non-growth

related. Growth inducing land use decisions include those that provide infrastructure, such as sewers, structural fire protection, and flood control facilities, to undeveloped areas. LAFCOs have the authority to regulate the boundaries of cities and most special districts that provide sewer, nonagricultural water, street, road, flood control, drainage, and structural fire protection services. Without these basic services and facilities, urban development is not feasible.

Growth supporting facilities and services affect the quality of life in developed areas. Where growth inducing decisions enable an uninhabited area to be developed, growth supporting decisions occur in areas already developed. Parks, libraries, harbors, and airports are a few of these nice amenities that improve the quality of life in developed areas. LAFCOs oversee the boundaries of cities and special districts that provide growth supporting services.

Non-growth related decisions are those that provide essential facilities for both urban and rural areas. Hospital, mosquito abatement, and cemetery districts all fall under this category. Again, LAFCO has the ability to regulate the boundary lines to cities and special districts that operate these facilities.

LAFCOs' planning activities include adopting and revising planning documents called spheres of influence for every city and for those special districts under the commission's jurisdiction. A ***sphere of influence*** designates an agency's probable future physical boundary and service area. It's the territory that a city or special district will annex in the future. It's also the area where the local government will build facilities and deliver services sometime in the future. A sphere of influence is often bigger than a local government's current jurisdiction.

LAFCOs consider the following when determining spheres of influence:

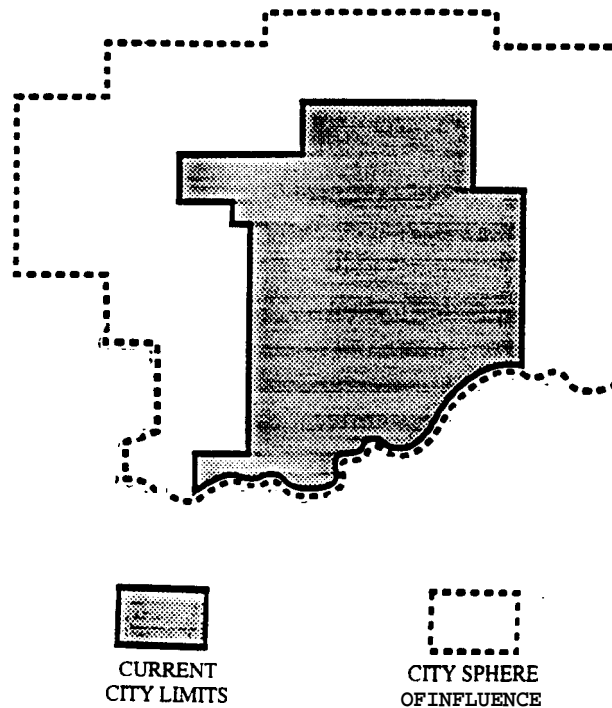
- Present and planned land uses.
- Present and probable need for public facilities and services.
- Present and probable future capacity of public facilities and services.
- Existence of any social or economic communities of interest.

LAFCOs may recommend boundary changes according to spheres of influence. Any person or local government may file a written request to amend a sphere of influence. The request may be submitted to a public hearing, and the commissioners have the final vote on whether or not to adopt the amended sphere of influence.

Whenever LAFCOs review boundary changes for cities or special districts, the commissions consider whether the boundary change (and the proposed land use decisions that would result from the change) coincide with the local governments' spheres of influence. Moreover, LAFCOs can recommend and conditional additional boundary changes as part of a submitted proposal based upon the spheres of influence.

The picture below shows the relationship between a defined boundary and a sphere of influence for a theoretical special district.

### Theoretical Relationship Between a City's Boundary and Sphere of Influence



### THE REASONS FOR BOUNDARIES

Why should LAFCOs regulate boundaries in the first place? Boundary lines have importance because they assign physical space, designate land use authority, define taxing powers, and establish corporate powers.

LAFCOs assign ***physical space*** to local governments and thereby defines a city's or special district's "identity." For example, the City of **Redding** lies along the Sacramento River and the foothills of the Coastal and the Cascade Ranges surround the city. The eastern side of the city lays relatively flat while the western edge has hills as tall as 1,200 feet and ravines as deep as 200 feet. Redding's geography and physical space play a role in policy decisions that its council must make.

Land use in California is ***mutually exclusive***. That's legalese for "what's my turf is my turf, and what's your turf is your turf." Mutually exclusivity explains why the **Redding**

City Council can approve a new subdivision in its jurisdiction but not in the unincorporated territory of Shasta County.

Boundaries define which local governments have **taxing powers** over a certain area. For example, the City of Sausalito is located in the County of **Marin**. Both the city and the county charge a 10% transient occupancy tax, commonly known as a “hotel tax.” If a tourist stays at a hotel in Sausalito, the city receives the revenue from the tax. If, however, someone stays at a hotel in the unincorporated part of **Marin** County, the county gets the tax revenue. These “site-specific taxes” are known as **situs** taxes because local governments impose and collect them within their defined boundaries.

Boundary lines decide which local governments have **corporate powers**, or the authority to “do things,” in a certain area. For example, the **Richvale** Irrigation District is located in Butte County, and it has the corporate power to build and maintain water facilities for agricultural irrigation. The District, however, cannot provide water to farmers outside its jurisdiction.

### **TYPES OF BOUNDARY CHANGES**

Sometimes local officials want to change their boundaries so they can serve additional areas, gain taxing powers, or encourage new development. Before a boundary change can occur, a person, group, or local government must submit **aproposal** to LAFCO. The Cortese-Knox Act calls a single boundary change in one proposal a **change of organization**. State law defines all nine changes of organization.

- An **annexation** occurs when a city or district attaches additional territory to its boundary. For example, the City of Laguna Hills in Orange County recently annexed territory because the property owners benefited from an increase in municipal services while the City gained more revenues through **situs** taxes. The opposite action, a **detachment**, happens when territory leaves a city or district. If property owners become dissatisfied with their current provider of services, they may wish to separate themselves from their local government. In 1996, for example, residents of the San Fernando Valley renewed the debate over detaching from the City of Los Angeles.
- **Incorporation** means the formation of a new city. Most cities incorporate for two reasons: to control land-use decisions and to receive local revenue. At least **500** people must live in the area to be incorporated when LAFCO considers the proposal. Some of California’s oldest cities were incorporated before the state joined the union, such as San Diego in 1769. Others incorporated as recently as 1993, such as Shasta Lake in Shasta County and **Truckee** in Nevada County. Today the state has 470 incorporated cities, and 90% of all Californians live in cities. Conversely, **disincorporation** terminates a city’s official existence. Disincorporation rarely occurs because people generally identify with their cities and prefer keeping land use

decisions at the local level. The last disincorporation was the City of Cabazon in Riverside County in the early 1970's.

- The **formation** of a special district means what it says, the formation of a special district. This change of organization is analogous to a city incorporation. Special districts come into existence because people identify the need for a specific service and decide that a special district would be the most effective provider. For example, in 1887 a group of farmers in Stanislaus County formed the state's first special district, the Turlock Irrigation District, to meet their agricultural needs. The number of special districts increased dramatically this century due to population growth and service demands. The next century may see a new trend in which the number of special districts might decrease due to a slowing of population growth and a lack of revenues. The **dissolution** of a special district parallels the disincorporation of a city. A district gets the ax and no longer has corporate powers. For instance, the Fallbrook Sanitation District provided sewer services in San Diego County. In 1994 the District dissolved, and the Fallbrook Public Utilities District assumed the former District's services.
- A **consolidation** occurs either when two or more cities located in the same county join together into a single successor city or when two or more special districts unite into a single new successor district. City consolidations don't happen too often, but every now and then they do. For example, in 1964 the City of North Sacramento consolidated with the City of Sacramento.

Only those districts formed pursuant to the same principal act (or enabling act) can consolidate. In other words, only the same types of special districts may consolidate. For example, the Fire Protection District Law of 1987 is the principal act for most fire districts. Both the Freedom Fire Protection District and the Salsipuedes Fire Protection District in southern Santa Cruz County received their powers from this principal act, so they could be consolidated. Santa Cruz LAFCO recently approved a consolidation of the two fire protection districts into the Pajaro Valley Fire Protection District.

A consolidation may not occur with two districts formed under different principal acts. As the Fire Protection District Law is the principal act for fire districts, the Public Cemetery District Law is the principal act that gives corporate powers to cemetery districts. Though the Ventura Fire Protection District and the Simi Valley Cemetery District are both in Ventura County, Ventura LAFCO can't approve a consolidation of these two districts because they have different principal acts.

- A merger happens when a special district loses its autonomy and a city takes over its service operations. A city may establish a separate department to maintain the former special district's services, or the district's services may be absorbed into a current agency or department. For example, the Encinitas Fire Protection District in San Diego County recently merged with the City of Encinitas. The City now runs its own Fire Protection Department.

- Cities can also establish a subsidiary district, where city council members serve as the district's board of directors. In such a scenario, the city council is called the *ex officio* board of directors. Though the subsidiary district has the same governing board as the city, the district remains a separate governmental entity with its own corporate powers.

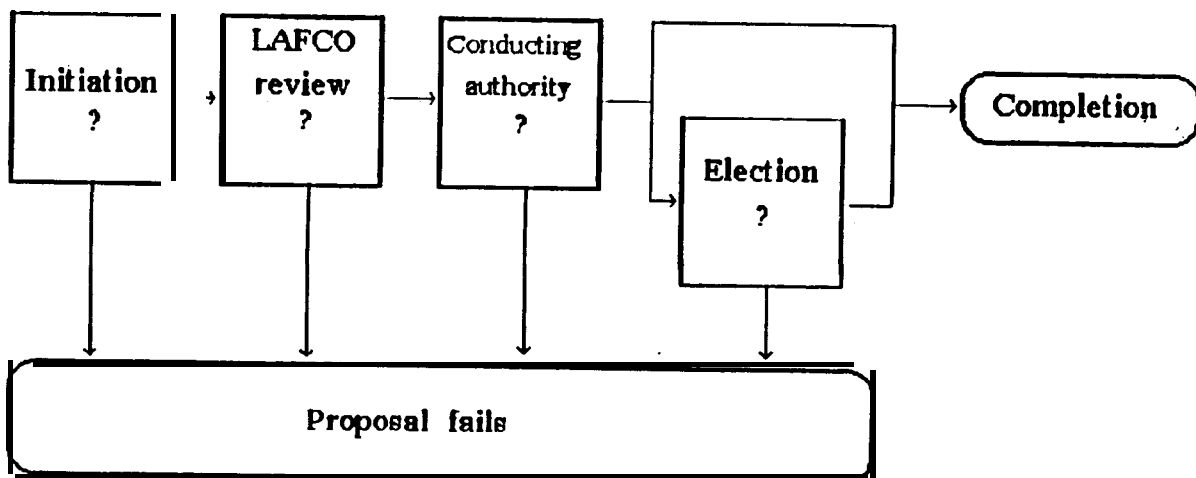
A proposal to merge a district into a city agency or department can occur only if a district's territory is entirely within city limits. A proposal can establish a subsidiary district as long as at least 70% of a district's territory is within a city's limits. District mergers may occur between existing subsidiary districts if the territory of all districts is within a city's boundary.

A multiple, meaning two or more, boundary change in one proposal is called a **reorganization**. If the City of Bishop in Inyo County submits a proposal to annex an acre of unincorporated land, dissolve a cemetery district, and form an irrigation district within its city limits, Inyo LAFCO calls the proposed action a reorganization because there would be many changes of organization. In other words, a reorganization is merely a way to package several related changes of organization into a single proceeding.

### PROCEDURES OF LAFCO

For any change of organization or reorganization to occur, four, or sometimes five, steps must occur: initiation, LAFCO review, conducting authority actions, a possible election, and completion. Below is a basic LAFCO Flow Chart for any proposal.

## Simple LAFCO Procedure



## **Initiation**

Initiation begins the process for a change of organization or reorganization. An initiation may begin in one of three ways: by petition, by resolution, or by LAFCO.

***Initiation by petition*** occurs when either registered voters or landowners request a boundary change. Usually registered voters sign a petition circulated throughout an inhabited area while landowners do so in uninhabited areas. Special districts, however, may allow landowners to sign a petition in an inhabited area if the district's principal act forms a landowner-voter district instead of a resident-voter district.

Before a LAFCO reviews any proposal, anywhere from 5% to 25% of the affected voters or landowners, depending upon the type of boundary change, must sign a petition (see appendix). For example, a city annexation requires at least 5% of the registered voters who live within the annexation area to sign the petition, and an incorporation necessitates 25% or more of the voters within the proposed incorporated area to sign a petition.

Petitioners for a reorganization must get the required number of signatures to satisfy all voter requirements. For example, a petition for a reorganization that involves both a district annexation (5%) and a city incorporation (25%) requires signatures from both affected areas. In practical terms, the higher minimum requirement, or **25%**, applies.

***Initiation by resolution*** occurs when the governing body of an affected local agency proposes a change of organization or reorganization. Any city or special district that overlaps the affected territory is an ***affected local agency***. A county is always an affected agency because its boundaries include all of the cities and special districts in that county. Therefore, the board of supervisors can initiate any boundary change in its county.

***Initiation by LAFCO*** may occur for special district consolidations, dissolutions, mergers, subsidiary districts, or related reorganizations. LAFCOs can't initiate annexations, detachments, or incorporations. Originally LAFCOs had only a reactive role regarding boundary changes because the commissions reviewed and decided upon proposals submitted by other agencies or voters. During the recession in the early 1990s, however, the Legislature decided that eliminating overlapping or duplicative special districts could save scarce revenues. The Legislature passed and Governor Pete Wilson signed a bill that let LAFCOs take a proactive role.

## **LAFCO Review**

Once a group of voters, an affected local agency, or LAFCO submits a proposal, the commission reviews it. LAFCO review has three stages: staff report and recommendation, a public hearing, and a final decision.

Every LAFCO has an executive ***officer*** (or chief staff person) who prepares reports for the commissioners. The executive officer may be a county employee or an independent

employee appointed by the commissioners. More populated counties tend to have full-time executive officers while less populated counties have county employees who work part-time on LAFCO business.

Before LAFCO can consider a proposal, its staff must determine two things:

- If initiated by petition, whether the proposal obtained the required number of signatures.
- If a satisfactory exchange of property tax has taken place.

Whenever LAFCO reviews a proposed incorporation, it must consider any negative tax shift that a county could sustain. Under *situs* laws, a newly incorporated city would receive various local taxes (including property taxes, transient occupancy taxes, and others) instead of the county. If LAFCO determines that an incorporation is **revenue neutral**, meaning a county would not substantially suffer from revenue losses, the incorporation may proceed. If, however, LAFCO determines an incorporation would substantially truncate a county's tax base, LAFCO denies the proposal and the city cannot incorporate.

The California Environmental Quality Act (CEQA) requires LAFCO staff to review any environmental impact a proposed boundary change might have. Depending upon the change of organization, LAFCO might need to complete an environmental impact report (EIR).

Within 30 days of receipt of a proposal, LAFCO staff decides that an application is either:

- Not complete and sends the proposal back to the proponents.
- Complete, issues a certificate of filing, and sets a LAFCO hearing within 90 days.

If the application is complete, the executive officer prepares a written report and recommendation for the commission. The report goes to all LAFCO members, all affected local agencies, and other persons named in the application to receive a report. LAFCO's staff must give public notice at least 15 days prior to a public hearing.

LAFCO conducts a public hearing for up to 70 days, during which time it considers a proposal's **terms and conditions**. Terms and conditions include the technical nitty-gritty involved with boundary changes, such as property tax transfer from one agency to another, the establishing of water use priorities, and other burdensome yet necessary details. Terms and conditions cannot directly regulate land use, property development, or subdivision requirements, but they can indirectly regulate land use.

LAFCO doesn't need to hold a public hearing for annexations, detachments, or reorganizations consisting of annexations and detachments if all of the landowners in the affected area consent to the boundary change.

The commission must make its final decision within 35 days of the hearing's conclusion. The commissioners have three choices:

- Approve the proposal.
- Approve the proposal with conditions.
- Deny the proposal.

If LAFCO denies a proposal, it fails and all proceedings cease. If LAFCO approves the proposal or approves with conditions, the commission adopts a resolution that spells out the terms and conditions for the boundary change. The resolution also designates a local agency to be the conducting authority.

### **Conducting Authority Actions**

*The conducting authority* is the legislative body of the affected city, affected special district, or affected county that LAFCO authorizes to carry-out the boundary change. Usually LAFCO names the city or special district that is most affected by a change of organization or reorganization. The conducting authority has one year after LAFCO approves a proposal to complete a boundary change.

Once LAFCO adopts a resolution, it is a “take-it-or-leave-it” proposal, for the conducting authority cannot alter LAFCO's final decision. The conducting authority acts solely as the administrative agent to facilitate the boundary change.

The conducting authority holds another public hearing, unless LAFCO authorizes the conducting authority to approve a proposal without a hearing. LAFCO can waive the conducting authority's public hearing if all three conditions are met:

- The affected territory is uninhabited.
- All of the landowners in the affected territory give written consent.
- All affected local agencies give written consent.

The conducting authority must schedule its hearing within 35 days after LAFCO approves a proposal. Local officials and the public must be given notice of the hearing at least 15 days prior to its commencement.

The second hearing may continue for 60 days. During that time, any registered voter or landowner within the affected territory may protest, either in person or in writing, a proposed boundary change. The conducting authority tabulates the number of written protests. At the conclusion of the hearing, the conducting authority adopts a resolution that does one of the following:

- Orders a boundary change without an election.
- Orders a boundary change, subject to voter approval.
- Terminates a boundary change due to protest.

The number of written protests determines whether or not some boundary changes require a confirmation election. The level of protest required for an election follows the “O-25-50% rule.”

- If less than 25% of the registered voters or landowners protest, the conducting authority orders the boundary change.
- If between 25% and 49% of the registered voters or landowners protest, the conducting authority must approve the boundary change, but the proposal must also go to an election for voter approval.
- If 50% or more of the registered voters or landowners protest, the conducting authority must terminate the boundary change and the proposal fails.

### **Possible Election**

Depending upon the change of organization, an election may be required. City incorporations, disincorporations, or any combination thereof always require an election. Annexations, detachments, consolidations, dissolutions, mergers, subsidiary districts, or any combination thereof may require an election, depending upon written voter protest. Formations may or may not require an election depending upon the district’s principal act specifications.

If the conducting authority calls an election, the voters need to ***confirm the question***, which is a fancy way of saying that voters will decide the fate of a proposed boundary change. If a majority (50% or more) of voters approve, the proposal passes and the boundary change occurs. If less than a majority (less than 50%) of voters confirm, the proposal fails and no boundary change occurs.

Only voters in the affected territory vote to confirm the question. For a proposed dissolution of a **special district**, only those registered voters who live in the district go to the polls. For a proposed city annexation, only the registered voters in the area proposed for annexation vote. If a proposal is a reorganization that affects several local agencies, the registered voters in all agencies participate. A vote to confirm a boundary change may occur in a primary, general, or special election.

### **Completion**

Completion of a boundary change happens only if LAFCO, the conducting authority, and, if necessary, the voters approve. Most of the completion process involves paperwork. The executive officer makes sure that the conducting authority’s resolution complies with LAFCO’s resolution. If it is in compliance, the executive officer issues a ***certificate of completion***, which the County Recorder then files. The affected local agencies recognize completion of the jurisdictional changes, which include property and sales tax transfers, police and fire protection responsibilities, planning and inspection controls, and other terms and conditions.

## **WHO SERVES ON LAFCO?**

Because LAFCOs have the ability to determine boundaries, they indirectly influence the political and the physical landscape of the state. Yet, very few Californians actually know who makes decisions for LAFCOs. Fortunately, the membership of most LAFCOs are easy to understand.

### **Standard Membership**

Each member of a LAFCO is called a *commissioner*. Most LAFCOs have five commissioners who are not directly elected to the commission. Four of the five members, however, are locally elected officials. Two LAFCO members come from a county's board of supervisors. Two LAFCO members are mayors or council members of cities within the county. One member comes from the public at large.

The five members of a county's board of supervisors appoint two of their colleagues to LAFCO. The supervisors also select a third supervisor as an alternate.

Every county with two or more cities has a *city selection committee* composed of each of those cities' mayors. The selection committee appoints two elected city officials and one alternate to serve on LAFCO.

The two county supervisors and two city representatives on LAFCO choose the fifth commissioner, a public member, and one alternate. Professors, professionals, and former elected officials often serve as representatives from the public.

### **Special Membership**

Rules always have exceptions. Some LAFCOs have special formulas for membership. Some counties, like Mariposa County, have no incorporated cities, and their LAFCOs consist of three county supervisors and two public members. The three supervisors appoint the other two commissioners and one alternate.

Some counties, like Sierra County, have only one incorporated city. Their LAFCOs have two county supervisors, one city council member, and two public members. The three elected officials appoint the two members of the public and one alternate.

In more than a dozen counties, LAFCOs also include commissioners who represent special districts. If a majority of the independent special districts in a county request representation, the commission's membership increases to accommodate two special district members. An *independent special district selection committee* consists of the presiding officers of the legislative bodies of every independent special district in the county, and it selects two members and one alternate from the many districts' legislative bodies to serve on LAFCO.

Sparsely populated counties sometimes combine these special formulas. Trinity LAFCO, for example, has a board with seven members even though Trinity County has no incorporated cities. Three commissioners come from the board of supervisors, two commissioners come from special districts, and two commissioners, appointed by the other five, come from the public at large.

San Francisco (known for doing things a little differently) has no LAFCO. Because San Francisco is California's only consolidated city and county, no boundary changes occur.

### **Specified Membership**

Of course, exceptions also have exceptions. For reasons relating to local politics, geography, and population, some LAFCOs have unique membership formulas.

Santa Clara LAFCO has five members, but its make-up is slightly different than the standard membership. Two commissioners are from the county board of supervisors. One commissioner, appointed by the council, is from San Jose, the city with the largest population in the county. One commissioner, appointed by the city selection committee, is from a city within the county. Finally, one LAFCO member is from the public.

Sacramento LAFCO has seven commissioners, but it does not have the standard five members plus two commissioners from special districts. Two commissioners are appointed by the county board of supervisors, and two are appointed by the independent special district selection committee. Only one commissioner is appointed by the city selection committee. Another commissioner is appointed by the mayor then confirmed by the Sacramento City Council. Finally, one commissioner who represents the general public is appointed by the other six commissioners.

San Diego LAFCO has eight members. In addition to the standard five commissioners, San Diego City appoints one council member to LAFCO's board. Two LAFCO members, appointed by the independent special district selection committee, represent special districts. One LAFCO member, appointed by the other seven members, comes from the public at large.

Los Angeles LAFCO has nine commissioners. In addition to the standard five members, L.A. LAFCO has one public member who resides in the San Fernando Valley area. This member cannot be a member of the board of supervisors, although the supervisors do appoint him or her. L.A. LAFCO also has a member who represents "a city...having a population in excess of 30% of the total population of the county." In other words, Los Angeles City has one of its council members, appointed by the mayor, on LAFCO. L.A. LAFCO also has two special district commissioners.

LAFCO membership changes every now and then. The best way to find out the composition of your county LAFCO is to call the commission's executive officer.

## WHO PAYS FOR LAFCO?

LAFCOs are state mandated programs, which means that the state requires counties to furnish LAFCOs with the necessary quarters, equipment, and supplies. Counties pay for the commissions' services with their general funds. General fund revenues come from general taxes raised in the counties, such as property taxes, business license taxes, and transient occupancy taxes. Californians, therefore, indirectly pay for LAFCO operations.

In fiscal year 1993-94, counties spent \$5.3 million on LAFCOs, with operating expenses varying widely from county to county. For example, **Lassen** County spent \$9 (that's right, nine dollars) for LAFCO while San Bernardino County spent **\$364,421**. Contra Costa, Kern, and Ventura Counties all paid roughly similar amounts for LAFCO operations with \$178,614, \$172,761, and \$183,902, respectively. **Marin** and Sacramento Counties appropriated no general fund money for their LAFCOs, while Los Angeles and Riverside Counties siphoned \$520,265 and **\$459,621**, respectively, for LAFCO. (For a complete list of county expenditures, see appendix).

In small counties where urban development needs less attention, a county may provide the necessary office space in another county department. For example, Amador County combines its LAFCO operations with its planning department. By combining quarters, supplies, and personnel, the County can save money.

Some counties, particularly those with large populations, can't fund their LAFCOs entirely through the general fund. LAFCOs recover costs by **charging filing and processing fees** to the local agency or the applicants submitting a proposal for a boundary change. Some LAFCOs require payment up front.

Fees vary depending upon the change of organization involved and the size of the affected area, but they can't exceed the reasonable cost of providing the service. The following table is a partial list of fees that Orange LAFCO charges (adopted May 1995):

<u><b>CHANGE OF ORGANIZATION</b></u>	<u><b>FEE</b></u>
ANNEXATIONS AND DETACHMENTS	
0.1 acres - 10 acres	\$1,500
10.1 acres - 100 acres	\$2,000
100+ acres	\$6,000
DISTRICT FORMATIONS	\$6,000
CITY INCORPORATIONS	\$6,000
CITY DISINCORPORATIONS	\$6,000
DISTRICT DISSOLUTIONS	\$3,000
CONSOLIDATIONS	\$4,000
MERGERS and SUBSIDIARY DISTRICTS	\$4,000

The charge for a reorganization varies from commission to commission. Orange LAFCO, for example, only charges for the most expensive change of organization in a proposal while San Diego LAFCO charges for all applications. If a group of voters submits a reorganization with a dissolution and an incorporation, Orange LAFCO charges \$6,000 while San Diego charges \$9,000.

LAFCOs usually charge for any environmental documents required under the California Environmental Quality Act (CEQA). If, for example, LAFCO completes an environmental impact report (EIR) because a proposed annexation requires environmental review, the commission may levy an extra fee in addition to the annexation processing fee.

Other fees may surface as part of LAFCO review. For example, the commission may need to hire outside counsel when a possible conflict of interest may exist for county counsel.

LAFCOs don't charge outrageous fees because they don't want to discourage the goals of orderly growth, logical boundaries, and preservation of agricultural land. Orange LAFCO, for instance, allows its executive officer to waive fees in some circumstances. Orange LAFCO also allows petitioners to appeal fees to the commission before the submittal of an application.

LAFCOs that charge fees should have a schedule that delineates the costs for changes of organizations. The schedule also explains how to waive charges. If you would like a copy of the schedule, just call your LAFCO's executive officer.

### THE HISTORY OF LAFCO

California's population exploded during and after World War II. With the increased number of people, an increased demand for government services naturally followed. Unfortunately the rapid growth led to poorly planned or hastily formed cities and special districts. Agricultural land quickly converted to urban use without proper research and review. The poor planning resulted in inefficient and expensive systems for delivering public services by using various small units of local government.

In 1959, Governor Edmund G. "Pat" Brown appointed the Commission on Metropolitan Area Problems. The Governor's commission studied the complexities of local government boundaries and recommended ways to solve the misuse of land resources.

In 1963, the California Legislature passed the commission's recommendations on local governmental reorganization. The ***Knox-Nisbet Act*** established a Local Agency Formation Commission in every county except San Francisco. The Act also defined LAFCO's purposes, among which were the discouragement of urban sprawl and the encouragement of logical growth. (In 1974 LAFCO's mission expanded to include the

preservation of agricultural land.) The Knox-Nisbet Act gave LAFCO the power to regulate city and district boundary changes.

In 1965, the Legislature passed the *District Reorganization Act (DRA)* that standardized the method for special district boundary changes. Before the DRA, special districts had slightly different procedures for boundary changes enumerated in their principal acts. The DRA consolidated the slightly different rules by subjecting special districts to the same procedures.

In 1977, Legislators consolidated the state laws regulating city boundary changes into the *Municipal Organization Act of 1977. MORGA*, as the Act was called, established new procedures for city boundary changes that were modeled after DRA.

Until 1985, LAFCOs operated under three basic laws: the Knox-Nisbet, the DRA, and MORGA. Acknowledging that the three acts were not always consistent, the Legislature repealed them all and enacted the *Cortese-Knox Local Government Reorganization Act of 1985*. The Cortese-Knox Act brought the state's boundary laws together in a single, unified statute.

### **LAFCO AND THE COURTS**

Any person or affected agency can appeal to LAFCO, within 30 days, any boundary change the commission approves. The executive officer gives notice of the request, and the commission hears the appeal at the next scheduled meeting. LAFCO takes written and oral protests for up to 70 days and then decides to approve or deny the appeal. If LAFCO denies the appeal, the resolution stands and the conducting authority's actions begin. If LAFCO approves the appeal, the commission adopts a new resolution that supersedes the old one. The new resolution may completely terminate the proposed boundary change. Once LAFCO decides on the appeal, no person or agency can make a second appeal to the commission. A person or agency then needs to go to the courts.

An individual can appeal a LAFCO decision by filing a validation action, which asks the court to rule on the validity of a boundary change. Further, a public agency may appeal a LAFCO decision within 60 days, and the California Attorney General may appeal a LAFCO boundary change. Overruling a LAFCO decision, however, is not easy.

Because LAFCOs have *legislative and quasi-legislative powers*, they can deliberate and amend proposals for boundary changes. Though the commissions lack the authority to change their procedural rules without the consent of the Legislature, LAFCOs have considerable latitude when making final decisions on boundary changes.

Legislative and quasi-legislative powers have legal implications as well. Whenever someone or some agency files a law suit against LAFCO, the court reviews the case under *the traditional mandamus* test because the commissioners make legislative and quasi-

legislative decisions. Traditional mandamus requires a court to look for corruption only. If the court finds that LAFCO commissioners engaged in no corruption when making a boundary decision, then the court dismisses the case and the boundary change remains as LAFCO decided.

If LAFCOs had ***administrative powers*** (instead of legislative and quasi-legislative powers), the courts would review a case under the ***administrative mandamus*** test. Administrative mandamus requires a court to look for **both** corruption and substantial evidence supporting the decision. Under administrative mandamus, if the commissioners could not produce enough evidence to justify their decision, the court could overrule LAFCO's decision and nullify a boundary change. The courts, however, must review cases brought against LAFCO decisions under traditional, not administrative, mandamus.

The complex legal terms involved with court review can be confusing. The main thing to remember is that LAFCO decisions are very difficult to overrule because the courts do not consider benefits, pitfalls, or alternatives (evidence) to a particular **boundary** change when someone brings a commission's decision to trial.

## **COMMONLY ASKED QUESTIONS ABOUT LAFCO**

### **1. What's a LAFCO?**

LAFCOs are independent regulatory commissions that receive their powers directly from the California Legislature. LAFCOs regulate the boundaries to cities and most special districts in every county except San Francisco. LAFCOs oversee local government boundaries on behalf of the state because they are "closer to the people" and because they are more efficient than having multiple local agencies controlling their own boundaries.

### **2. What do LAFCOs do?**

LAFCOs regulate. They are the Legislature's "watchdog" over boundary changes to encourage and provide well-ordered urban development. Whenever there's a proposal for a change of organization or reorganization (see "TYPES OF BOUNDARY CHANGES," p. 8), LAFCO must review the proposal. The commission holds a public hearing **and** either approves or denies the proposal. LAFCO may attach additional terms and conditions. If LAFCO approves a proposal, it directs a local government to be the conducting authority that holds another public hearing and possible election (see "PROCEDURES OF LAFCO," p. 10).

LAFCOs also plan. They develop and maintain spheres of influence for local governments within their jurisdiction. When LAFCOs review boundary changes, they make sure the changes of organization and reorganizations coincide with the current spheres of influence.

### **3. Why are boundary changes important?**

Boundaries assign physical space and define the “identities” of local governments. If boundaries change, the “identities” of these local governments change as well. For example, the City of Los Angeles has many distinct neighborhoods, such as the San Fernando Valley, San Pedro, Watts, and Westwood. If residents from the San Fernando Valley want to detach from Los Angeles and incorporate as a separate city, Los Angeles’s “identity” would change.

Boundaries also decide which local government can tax an area. If a city’s boundary changes, the residents subject to that city’s taxes also change.

Local governments have corporate powers, or the powers to “do stuff,” only within their defined boundaries. If a boundaries changes, a local agency’s applicability of its corporate powers also changes (see “THE REASONS FOR BOUNDARIES,” p. 7).

### **4. Who controls the local boundaries that LAFCO doesn’t?**

Ultimately, the state controls all the boundaries to its subsidiary governments, but it generally authorizes local governments, even those not subject to LAFCO review, to decide boundary changes. For example, the county boards of supervisors adopt minor boundary changes where a county boundary line moves less than five miles. Major boundary changes, however, are more complicated because they involve a special County Boundary Review Commission appointed by the Governor.

Every county has a board of education that oversees all education matters, and the board’s committee on school district organization regulates boundary changes to all school districts.

Counties, cities, school districts, and special districts form finance district boundaries, such as **Mello-Roos** districts or benefit assessment districts, and their governing bodies have the power to alter financing district boundaries.

Regional governments are state commissions, established by statute, that exist to accommodate a defined public policy interest of a “regional” nature. The Legislature creates these governments and can dissolve them or alter their boundaries.

### **5. Who runs LAFCOs?**

The Legislature spells out LAFCO's membership. Currently, the Cortese-Knox Act prescribes who serves as commissioners on LAFCOs and who runs the day to day operations (see “WHO SERVES ON LAFCO?” and “PROCEDURES OF LAFCO,” pp. 15 and 10). The standard membership for a LAFCO is two county supervisors, two city council members, and one public member. Some LAFCOs have two special district commissioners.

Every LAFCO has an executive officer who prepares reports for the commissioners. The executive officer may be a county employee or an independent employee appointed by the commissioners. To find out who serves on your LAFCO and who does the staff work, contact your commission.

## **6. Can I be on a LAFCO?**

Yes, in several ways. Any county resident who is a registered voter may run for Supervisor. Similarly, a registered voter in a city may run for Council. Supervisors and council members sit on LAFCO boards. If you don't wish to run for elected office, every LAFCO has at least one public member chosen by the other members. The other members probably won't pick a name out of a hat, so your best bet is to be politically involved in local government.

## **7. What if I don't like a proposed boundary change? Can I protest or appeal?**

When someone or some local government submits a proposal for a boundary change, LAFCO conducts an open and public hearing. If LAFCO approves the proposal, the conducting authority holds another public hearing. LAFCO and the conducting authority take public protest into consideration during both hearings. The conducting authority measures written protest. Some changes of organization must have a confirmation election while other changes of organization fall under the "0-25-50% rule" for voter confirmation. If at least half of the registered voters submit written protests to the conducting authority, it terminates the boundary change for any proposal (see "PROCEDURES OF LAFCO," p. 10).

After LAFCO passes a resolution authorizing a boundary change, you or an affected agency can appeal to LAFCO within 30 days (see "LAFCO AND THE COURTS," p. 19). If LAFCO denies the appeal, the resolution stands and the conducting authority actions begin. If LAFCO approves the appeal, the commission adopts a new resolution that supersedes the old one. The new resolution may completely terminate the proposed boundary change. Once LAFCO decides on the appeal, you can't make a second appeal on the same boundary change.

You can appeal a LAFCO decision by filing a special type of lawsuit called a "validation action," which asks the court to rule on the validity of a boundary change. To begin the proceedings, a person must file the complaint with the county superior court and must provide proof of an invalid boundary change within 60 days after the filing. When a court must rule on the validity of a boundary change, it must consider the case under traditional mandamus (see "LAFCO AND THE COURTS," p. 19). To find out the details for filing a lawsuit, you will probably want to consult an experienced attorney.

## **8. What's a "sphere of influence"?**

A sphere of influence is a planning document adopted by LAFCO that shows on a map a city or special district's future boundary and service (see "POWERS OF LAFCO," p. 6). In effect, a sphere of influence tells landowners, residents, and public officials where the LAFCO thinks a city or district will annex in the future. All boundary changes must be consistent with spheres of influence.

## **9. Does CEQA affect LAFCO?**

Yes. Though a LAFCO never engages in direct land use decisions, its decisions indirectly affect land use. City annexations, certain detachments, and revisions to a local agency's sphere of influence are all subject to environmental review under the California Environmental Quality Act (CEQA).

## **10. Where can I get the Cortese-Knox Act?**

The Cortese-Knox Act starts at Section 56000 of the California Government Code. You can get "the code" at your county law library or over the internet at [www.sen.ca.gov](http://www.sen.ca.gov) under "Legislation." The California Assembly Local Government Committee publishes the Guide to Cortese-Knox Local Government Reorganization Act of 1985, and you can order it from Assembly Publications at (916) 4454874.

## **11. Where can I get more information about LAFCOs?**

The best place to start is with your LAFCO's executive officer or staff. You can usually find LAFCO's number in the government pages of your telephone book. The commission's office is generally in the county civic center or in close proximity, and most LAFCOs have a public meeting at least once a month. Another place to get good information is from the California Association of Local Agency Formation Commissions. CALAFCO lobbies the State Legislature for the 57 LAFCOs and can be reached at (408) 755-5065. CALAFCO also has a phone directory of all LAFCOs that's available through San Diego LAFCO at (619) 531-5400.

# **IT'S TIME TO DRAW THE LINE**

A Citizen's Guide to Local Agency Formation Commissions in California

## **APPENDICES**

# CALIFORNIA COUNTIES



## **List of Changes of Organization**

- Annexation
- Detachment
- Incorporation
- Disincorporation
- Formation
- Dissolution
- Consolidation
- Merger
- Subsidiary District

## **Changes of Organization Subject to Confirmation Election**

- Incorporations
- Disincorporations

## **Changes of Organization Subject to "0-25-50%" Rule**

- Annexations
- Detachments
- Dissolutions
- Consolidations
- Mergers
- Subsidiary Districts

## **Changes of Organization Subject to Special District Principal Acts**

- Formations

## Signature Requirements for a Boundary Change Initiated by Petition

Change of Organization	Signature Requirement*		Comments
	<i>city</i>	<i>Special District</i>	
Annexation	5%	5%	Voters in affected area must sign a petition.
(Annexation in Los Angeles County)	8%	5%	Cities with over 100,000 population must get signatures from voters in the affected area.
Detachment	20%	5%	Voters who live in the affected area must sign a petition.
Incorporation	25%	n/a	At least 500 registered voters must live in area to be incorporated.
Disincorporation	25%	n/a	Voters who live within the city to be disincorporated must sign a petition.
Formation	n/a	depends	Formation of a special district must comply with the proposed district's principal act.
Dissolution	n/a	5%	Voters who live within the district to be dissolved must sign a petition.
Consolidation	20% per city	5% per district	Voters within each of the cities or districts to be consolidated must sign a petition.
Merger (Subsidiary District)	10%	10%	Either 10% of voters within a district or 10% of voters in territory of the city outside the district must sign a petition.
Reorganization	depends	depends	Voters must get the number of signatures to satisfy all requirements.

\*Minimum voter requirements may be fulfilled by either registered voters or landowners.

## County Expenditures for LAFCOs (Fiscal Year 1993-94)

<u>COUNTY</u>	<u>TOTAL EXPENSES</u>	<u>COUNTY</u>	<u>TOTAL EXPENSES</u>
Alameda	\$73,381	Nevada	\$90,742
Alpine	\$225	Orange	\$281,279
Amador	\$35,484	Placer	\$112,573
Butte	\$68,813	<b>Plumas</b>	\$12,888
Calaveras	\$6,595	Riverside	\$459,621
Colusa	\$923	Sacramento	\$0
Contra Costa	\$178,614	San Benito	\$285
Del Norte	\$5,562	San Bernardino	\$364,421
<b>El Dorado</b>	\$117,026	San Diego	\$252,632
Fresno	\$145,378	San Joaquin	\$121,137
Glenn	\$12,827	San Luis Obispo	\$163,053
Humboldt	\$34,578	San Mateo	\$231,402
Imperial	\$11,234	Santa Barbara	\$88,522
Inyo	\$1,144	Santa Clara	\$93,210
Kern	\$172,761	Santa Cruz	\$136,425
Kings	\$10,042	Shasta	\$34,926
Lake	<b>\$18, 910</b>	Sierra	\$225
<b>Lassen</b>	<b>\$9</b>	Siskiyou	\$786
Los Angeles	<b>\$520, 265</b>	Solano	\$30,163
<b>Madera</b>	<b>\$11, 769</b>	Sonoma	\$128,190
<b>Marin</b>	<b>\$0</b>	Stanislaus	\$47,650
Mariposa	<b>\$6, 349</b>	Sutter	\$24,199
Mendocino	<b>\$63, 753</b>	Tehama	\$195
<b>Merced</b>	<b>\$10, 733</b>	Trinity	\$298
Modoc	<b>\$2, 961</b>	Tulare	\$54,725
Mono	<b>\$9, 436</b>	Tuolumne	\$1,764
Monterey	<b>\$621, 887</b>	Ventura	\$185,393
<b>Napa</b>	<b>\$104, 231</b>	Yolo	\$127,704
		Yuba	<u>\$45,841</u>
		State total	<b>\$5,335,139</b>

## References to Questions

The section entitled, "Common Questions about LAFCOs," tries to anticipate many of your questions about LAFCOs. Here is a list of the references used to answer the questions.

Statutes are listed by code followed by section. For example, "Government Code §56001" means that you can find the statute under Section 56001 of the Government Code. When reading the code, start by looking at the **back of** the book in the "pocket part." The pocket part has the latest versions of the statutes, including recent amendments and deletions.

### Question #1:

Government Code § 56001.  
Government Code § 56325.

### Question #2:

Government Code § 56300.  
Government Code § 56426.  
Government Code § 56841.  
Government Code § 56843.  
Government Code § 56844.  
Government Code § 56852.  
Timberidge Enterprises, Inc. v. City of Santa Rosa 86 Cal. App. 3d 873  
(1978).  
City of Ceres v. City of Modesto 274 Cal. App. 2d 545 (1969).

### Question #4:

Education Code § 35500 et seq.  
Government Code § 23200.  
Government Code § 23202.  
Government Code § 23233.  
Government Code § 23248.

### Question #5:

Government Code § 56325.  
Government Code § 56384.

### Question #6:

Government Code § 56325.  
Government Code § 56337.

**#7:**

Civil Procedure Code § 860.

§ 863.

Government Code § 56840.

§

§Government Code

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§Government Code 1 .

**Question #8:**

Government Code § 56425.

Government Code § 56428.

**Question #9:**

Public Resources Code § 21000 et seq.

Bozung v. Local Agency Formation Com. 13 Cal. 3d 263 (1975).

Pistoresi v. City of Madera. 138 Cal. App. 3d 284 (1982).

People ex rel. Younger v. Local Agency Formation Com. 81 Cal. App. 3d 464 (1978).

Simi Valley Recreation & Park Dist. v. Local Agency Formation Com. 51 Cal. App. 3d 648 (1975).

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